

BILL NO. 81-95

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COUNTY COUNCIL

OF

HARFORD COUNTY, MARYLAND

BILL NO. 81-95

Introduced by Council President Hardwicke at the request of the
Special County Executive

Legislative Day No. 81-35 Date November 19, 1981

AN ACT authorizing and empowering Harford County, Maryland, to issue and sell, as limited obligations of the County and not upon its full faith and credit, its industrial development revenue bonds, in the aggregate principal amount not to exceed \$800,000, pursuant to Sections 266(A) to 266(I), inclusive of Article 41 of the Annotated Code of Maryland (1978 Replacement Volume, 1981 Cumulative Supplement), as amended, for the purpose of financing the acquisition of a certain industrial building to be located on Rocks Road in Forest Hill and to be owned by Myers Joint Venture, a Maryland Partnership, and used as a catalogue retail showroom; and generally providing for and determining various matters, details and procedures in connection therewith.

By the Council, November 19, 1981

Introduced, read first time, ordered posted and public hearing scheduled

on: December 15, 1981

at: 7:30 P.M.

By Order: Angela Markowski, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on December 15, 1981 and concluded on December 15, 1981.

Angela Markowski, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

BILL NO. 81-95

RECITALS

Sections 266A to 266I, inclusive, of Article 41 of the Annotated Code of Maryland (1978 Repl. Vol., 1981 Cum. Supp.), as amended (the "Act"), empower all the counties and municipalities of the State of Maryland to borrow money by issuing revenue bonds for the purpose of financing the costs of acquiring any industrial building or buildings (as defined in the Act). The Act declares it to be the legislative purpose to relieve conditions of unemployment in the State of Maryland, to encourage the increase of industry and a balanced economy in the State of Maryland, to assist in the retention of existing industry in the State of Maryland through the control, reduction or abatement of pollution of the environment (where proceeds of the bonds are used for that purpose), to promote economic development, to protect natural resources and in this manner to promote the health, welfare and safety of the residents of each of the counties and municipalities of the State of Maryland.

Harford County, Maryland, a body politic and corporate and a political subdivision of the State of Maryland (the "County"), received a letter of intent dated October 14, 1981 (the "Initial Letter of Intent") from Maryland Candy Company, Inc., a Maryland corporation (the "Company") pursuant to which the Company requested the County to participate in the financing of the acquisition (within the meaning of the Act) of an industrial building (within the meaning of the Act) to be located in Harford County, Maryland (the "Industrial Building") by the issuance and sale by the County of its industrial development revenue bonds in the aggregate principal amount not to exceed \$800,000 pursuant to and in accordance with the Act.

1 The County Council of Harford County adopted Resolution
2 No. 59-81 on October 14 , 1981 (the "Initial Resolution") and
3 therein stated and declared the present intention of the
4 County to participate in the financing of the Industrial
5 Building by issuing and delivering its industrial development
6 revenue bonds in the aggregate principal amount not exceeding
7 \$800,000 and by loaning the proceeds thereof to the Company
8 to finance a portion of the cost of the acquisition of
9 the Industrial Building as generally described in the Initial
10 Letter of Intent.

11
12 The County received a second letter of intent dated
13 November 5, 1981 ("Amended letter of Intent") from Myers
14 Joint Venture (the "Industrial Concern") pursuant to which
15 the Industrial Concern advised the County that the Industrial
16 Concern would be substituted for the Company as owner of the
17 Industrial Building. The Amended Letter of Intent stated
18 that the Company agreed to the substitution of the
19 Industrial Concern and withdrew its request for financing,
20 agreeing to absolve the County of any commitment to loan
21 the proceeds of the Bonds to the Company. The Amended
22 Letter of Intent proposed that the County loan the proceeds
23 of the Bonds to the Industrial Concern for the acquisition
24 of the Industrial Building.

25
26 The County Council of Harford County adopted Resolution
27 71-81 on November 10, 1981 (the "Inducement Resolution")
28 and therein stated the present intention of the County to
29 issue and deliver its industrial development revenue bonds
30 in the aggregate principal amount not exceeding \$800,000
31 and to loan the proceeds thereof to the Industrial Concern
32 for the acquisition and improvement of the Industrial

1 Building. By the Inducement Resolution, the County Council
2 withdrew the expressed intention of the County to loan the
3 proceeds to the Company and, by the adoption of the Inducement
4 Resolution and acceptance of the Amended Letter of Intent
5 absolved the County of any obligation to lend the proceeds to
6 the Company.

7 The Industrial Building, which is an "industrial build-
8 ing" as defined in Section 266A of the Act, will consist of
9 (a) the acquisition of land, together with any and all
10 improvements located thereon, (b) the construction on
11 the land of new facilities, (c) the acquisition
12 and installation of certain machinery and equipment, and
13 of any and all other improvements, necessary or useful in
14 connection with the operation of the Industrial Concern on
15 and in such property, and (d) the acquisition of such other
16 interests in land as may be necessary or suitable for the
17 foregoing, including roads and rights of access, utilities
18 and other necessary site preparation facilities. The Indus-
19 trial Concern will use the Industrial Building as a catalogue
20 showroom for the retail sale of merchandise.

21 Based upon the findings and determinations set forth in
22 the Inducement Resolution and the findings and determina-
23 tions set forth below, the County has determined to partici-
24 pate in the financing of the Industrial Building by the
25 issuance, sale and delivery, at any time or from time to time
26 and in one or more series, of its industrial development
27 revenue bonds, in the aggregate principal amount not to
28 exceed \$800,000 (the "Bonds"), and by loaning the proceeds
29 of the Bonds of any series to the Industrial Concern upon
30 the terms and conditions of one or more loan agreements or
31 other similar agreements to be entered into between the
32 County and the Industrial Concern (a "Loan Agreement"), as

1 permitted by the Act, such proceeds to be used by the Indus-
2 trial Concern solely to finance the acquisition of the
3 Industrial Building.

4 Any Loan Agreement entered into with respect to the
5 Bonds of any series will require (a) the Industrial Concern
6 and the County to use the proceeds of the Bonds of such
7 series solely to finance the acquisition of the Industrial
8 Building, and (b) the Industrial Concern to make payments
9 which will be sufficient to enable the County to pay the
10 principal of and interest and premium, if any, on the Bonds
11 of such series when and as the same become due and payable.

12 NOW THEREFORE, IN ACCORDANCE WITH THE ACT:

13 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF
14 HARFORD COUNTY, MARYLAND, That acting pursuant to the Act, it
15 is hereby found and determined as follows:

16 (1) The issuance and sale of the Bonds by the
17 County, pursuant to the Act, for the sole and exclusive
18 purpose of financing the acquisition (within the meaning of
19 the Act) of the Industrial Building will facilitate and
20 expedite the acquisition of the Industrial Building.

21 (2) The acquisition of the Industrial Building and
22 the financing thereof as provided in this Ordinance will
23 promote the declared legislative purposes of the Act by (a)
24 sustaining jobs and employment and aiding in maintaining and
25 increasing employment, thus relieving conditions of unemploy-
26 ment in the State of Maryland and in Harford County; (b)
27 encouraging the increase of industry and the creation of a
28 balanced economy in the State of Maryland and in Harford
29 County; (c) assisting in the retention of existing industry
30 in the State of Maryland and in Harford County; (d) promoting
31 economic development; and (e) promoting the health, welfare
32

1 and safety of the residents of Harford County and of the
2 State of Maryland.

3 (3) In addition to authorizing the County itself
4 to construct industrial buildings and either to lease or to
5 sell such buildings to the Industrial Concern, the Act, as an
6 alternative procedure, also authorizes industrial building
7 financing to be accomplished in the form of a loan to the
8 Industrial Concern. The loan form of transaction avoids
9 indirect costs and burdens on the County by not requiring any
10 direct involvement by the County in the acquisition, owner-
11 ship or administration of the Industrial Building, while
12 permitting ample controls to be imposed on the use of the
13 proceeds of the Bonds to insure that the public purposes of
14 the Act are fully accomplished. It is, therefore, in the
15 best interests of the citizens of the County to finance the
16 acquisition of the Industrial Building by a loan to the
17 Industrial Concern. This Ordinance contemplates transaction
18 in the form of a loan of the proceeds of the Bonds by the
19 County to the Industrial Concern, rather than a transaction
20 in the form of a lease or sale of the Industrial Building to
21 the Industrial Concern.

22 (4) Neither the Bonds nor the interest thereon
23 shall ever constitute an indebtedness or general obligation
24 of the County or a charge against, or pledge of, the general
25 credit or taxing powers of the County, within the meaning of
26 any constitutional or charter provision or statutory limit-
27 ation, and neither shall ever constitute or give rise to any
28 pecuniary liability of the County. The Bonds and the
29 interest thereon shall be limited obligations of the County,
30 repayable by the County solely from the revenue derived from
31 loan repayments (both principal and interest) made to the
32 County by the Industrial Concern under the applicable Loan

1 Agreement and from any other moneys made available to the
2 County for such purpose. Neither the proceeds of the Bonds
3 nor the payments of the principal of and premium (if any) and
4 interest on the Bonds will be commingled with the County's
5 funds or will be subject to the absolute control of the
6 County, but will be subject only to such limited supervision
7 and checks as are deemed necessary or desirable by the County
8 to insure that the proceeds of the Bonds are used to accom-
9 plish the public purposes of the Act and this Ordinance. The
10 transactions authorized hereby do not constitute any physical
11 public betterment or improvement or the acquisition of
12 property for public use or the purchase of equipment for
13 public use. The public purposes expressed in the Act are to
14 be achieved by facilitating the acquisition of the Industrial
15 Building by the Industrial Concern.

16 (5) The security for the Bonds of any series shall
17 be solely and exclusively (a) the absolute, irrevocable and
18 unconditional obligation of the Industrial Concern to make
19 the payments required by the Loan Agreement entered into with
20 respect to the Bonds of such series, (b) moneys realized from
21 the liquidation of any lien and security interest created by
22 such Loan Agreement and of any other lien or security
23 interest created with respect to any property as security for
24 the Bonds of such series or the related Loan as the County
25 Council of the County (the "County Council") may provide for
26 and approve by a resolution or resolutions to be adopted by
27 the County Council prior to the issuance, sale and delivery
28 of the Bonds of such series (an "Administrative Resolution"),
29 and (c) moneys realized from any guaranty of the Bonds of
30 such series or the related Loan as the County Council may
31 provide for and approve in an Administrative Resolution.
32

1 (6) As required by Section 266G of the Act, the
2 County does hereby set aside and pledge the income and
3 revenue of the County from the Industrial Building into a
4 separate and special fund to be used and applied in payment
5 of the cost thereof. However, none of such income and
6 revenue shall be set aside as a depreciation account (as
7 described in the Act), because such an account would (a) be
8 inconsistent with the transactions authorized hereby, and (b)
9 place an unreasonable burden on the Industrial Concern so as
10 to adversely affect the feasibility of the transaction and
11 thus frustrate the legislative purposes of the Act. The
12 Industrial Concern shall covenant and agree to properly
13 operate and maintain the Industrial Building during the time
14 any of the Bonds are outstanding. If the Bonds of any series
15 are secured by a lien on or security interest in the Indus-
16 trial Building, such covenant and agreement shall include a
17 specific undertaking by the Industrial Concern to make all
18 equipment replacements and repairs necessary to insure that
19 the security for the Bonds of such series shall not be
20 impaired.

21 (7) The Bonds of each series shall be authorized,
22 issued, sold and delivered without direct or indirect cost to
23 the County, and to that end, the County Executive shall
24 provide for the payment directly by the Industrial Concern of
25 all necessary expenses of preparing, printing and selling the
26 Bonds of each series and other costs contemplated and per-
27 mitted by the Act, including (without limitation) any and all
28 costs, fees and expenses incurred by or on behalf of the
29 County in connection with the authorization, issuance, sale,
30 delivery and administration of the Bonds of each series and
31 all costs incurred in connection with the development of the
32 appropriate legal documents, including (without limitation),

1
2 the fees of bond counsel to the County and compensation
3 to any person (other than full-time employees of the County)
4 or entity performing services for or on behalf of the
5 County in connection with the transactions contemplated
6 by this Ordinance, whether or not the proposed financing is
7 consummated.
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9 (8) As evidenced by the Amended Letter of
10 Intent, the Industrial Building is to be acquired by and
11 for use by the Industrial Concern, an "industrial
12 concern" and a "bona fide tenant or purchaser" within
13 the meaning of the Act.
14

15 SECTION 2. AND BE IT FURTHER ENACTED BY THE COUNTY
16 COUNCIL OF HARFORD COUNTY, MARYLAND, That this
17 Ordinance, among other things, and the Inducement
18 Resolution evidence the intent of the County to issue,
19 sell and deliver the Bonds authorized hereby in
20 accordance with the terms hereof. The County and
21 the Industrial concern contemplate that, upon the
22 enactment of this Ordinance, the Industrial Concern
23 may commence the acquisition of the Industrial
24 Building prior to the issuance, sale and delivery
25 of the Bonds.
26

27 SECTION 3. AND BE IT FURTHER ENACTED BY THE COUNTY
28 COUNCIL OF HARFORD COUNTY, MARYLAND, That the County is
29 hereby authorized and empowered to issue, sell and deliver
30 the Bonds at any time or from time to time and in one or more
31 series, in the aggregate principal amount not to exceed
32 \$800,000, subject to the provisions of this Ordinance. The

County will lend the proceeds of the Bonds of any series to the Industrial Concern pursuant to the terms and provisions of a Loan Agreement, to be used by the Industrial Concern for the sole and exclusive purpose of financing the acquisition of the Industrial Building. The Bonds of any series and the interest thereon shall be limited obligations of the County, repayable by the County solely from the revenue derived from payments made to the County by the Industrial Concern pursuant to the Loan Agreement entered into with respect to the Bonds of such series, and from any other moneys made available to the County for such purpose. The security for the Bonds of any series shall be solely and exclusively as provided in Section 1 of this Ordinance.

SECTION 4. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Bonds may be issued at any time or from time to time and in one or more series, and each series of the Bonds shall be identified by the year of issue or other appropriate designation. Unless otherwise provided by the County Council in an Administrative Resolution, each of the Bonds shall bear the descriptive title "Harford County, Maryland Industrial Development Revenue Bond (Myers Joint Venture Project); provided, that the descriptive title may contain such other descriptive information as the County Council may prescribe in an Administrative Resolution (e.g. "1981 Series B").

SECTION 5. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Bonds of any series, which may be engraved, printed or typewritten, shall:

(a) be executed, issued and delivered in such amount or amounts, not exceeding \$800,000 in the aggregate, unless that amount is increased by an Ordinance supplemental hereto,

1 (b) bear interest at such rate or rates,
2 (c) be dated,
3 (d) be in such denominations,
4 (e) be of such form and tenor,
5 (f) be payable, both as to principal and interest,
6 in such amounts, from and at such times (not later than 30
7 years from the date thereof) and at such place or places, and
8 (g) be subject to redemption prior to their stated
9 maturity on such terms and conditions, all as the County
10 Council may prescribe, determine or provide for in an Adminis-
11 trative Resolution.

12 SECTION 6. AND BE IT FURTHER ENACTED BY THE COUNTY
13 COUNCIL OF HARFORD COUNTY, MARYLAND, That the Bonds shall be
14 executed in the name of the County and on its behalf by the
15 County Executive of the County, by his manual or facsimile
16 signature, and the corporate seal of the County or a fac-
17 simile thereof shall be impressed or otherwise reproduced
18 thereon and attested by the Director of Administration of
19 the County, by his manual signature. Any Loan Agreement
20 and, where applicable, all other documents as the County
21 Council shall deem necessary to effectuate the issuance, sale
22 and delivery of the Bonds of any series, shall be executed in
23 the name of the County and on its behalf by the County
24 Executive of the County by his manual signature, and the
25 corporate seal of the County or a facsimile thereof shall be
26 impressed or otherwise reproduced thereon and attested by the
27 Director of Administration of the County by his manual
28 signature. In case any officer whose signature or a fac-
29 simile of whose signature shall appear on the Bonds of any
30 series or any of the aforesaid documents shall cease to be
31 such officer before the delivery of the Bonds of such series
32 or any of the other aforesaid documents, such signature or

1 such facsimile shall nevertheless be valid and sufficient for
2 all purposes, the same as if such officer had remained in
3 office until delivery. The County Executive of the County,
4 the Director of Administration of the County and other
5 officials of the County are hereby authorized and empowered
6 to do all such acts and things and execute such documents and
7 certificates as the County Council may determine in an
8 Administrative Resolution to be necessary to carry out and
9 comply with the provisions hereof; and, upon the enactment of
10 this Ordinance, such officials are hereby authorized and
11 empowered to prepare and distribute, in conjunction with
12 representatives of the Industrial Concern and the prospective
13 purchasers of or underwriters for the Bonds of any series,
14 both a preliminary and a final official statement in connec-
15 tion with the sale of the Bonds of any series, if such
16 preliminary official statement and final official statement
17 are determined to be necessary or desirable for the sale of
18 the Bonds of such series, provided, however, that any such
19 preliminary official statement shall be clearly marked to
20 indicate that it is subject to completion and amendment.

21 SECTION 7. AND BE IT FURTHER ENACTED BY THE COUNTY
22 COUNCIL OF HARFORD COUNTY, MARYLAND, That prior to the
23 issuance, sale and delivery of the Bonds of any series, the
24 County Council shall adopt an Administrative Resolution,
25 pursuant to which the County Council may (without limita-
26 tion):

27 (a) prescribe the form, tenor, terms and con-
28 ditions of and security for the Bonds of such series;

29 (b) prescribe the amounts, rate or rates of
30 interest, denominations, date, maturity or maturities (within
31 the limits herein prescribed), and the time and place or
32 places of payment of the Bonds of such series, and the terms

1 and conditions and details under which the Bonds of such
2 series may be called for redemption prior to their stated
3 maturity;

4 (c) if necessary, appoint a trustee, a bond
5 registrar and a paying agent or agents for the Bonds of such
6 series;

7 (d) approve the form and contents, and authorize
8 the execution and delivery (where applicable) of a Loan
9 Agreement and such other documents, including (without
10 limitation) trust agreements, assignments, mortgages, deeds
11 of trust, bond purchase agreements, guaranties and security
12 instruments to which the County is a party and which may be
13 necessary to effectuate the issuance, sale and delivery of
14 the Bonds of such series;

15 (e) determine the time of execution, issuance,
16 sale and delivery of the Bonds of such series and prescribe
17 any and all other details of the Bonds of such series;

18 (f) provide for the direct payment by the Indus-
19 trial Concern of all costs, fees and expenses incurred by or
20 on behalf of the County in connection with the authorization,
21 issuance, sale, delivery and administration of the Bonds of
22 such series, including (without limitation) costs of printing
23 (if any) and issuing the Bonds of such series, legal expenses
24 (including the fees of bond counsel) and compensation to any
25 person (other than full-time employees of the County) perfor-
26 ming services by or on behalf of the County in connection
27 therewith;

28 (g) provide for the issuance and sale (subject to
29 the passage at the time of an appropriate ordinance author-
30 izing the same, if necessary) of one or more series of
31 additional bonds and one or more series of refunding bonds;
32 and

1 (h) do any and all things, and authorize the
2 officials of the County to do any and all things, necessary,
3 proper or expedient in connection with the issuance, sale and
4 delivery of the Bonds of such series.

5 SECTION 8. AND BE IT FURTHER ENACTED BY THE COUNTY
6 COUNCIL OF HARFORD COUNTY, MARYLAND, That, as authorized by
7 the Act, unless, at the request of the Industrial Concern
8 the County Council provides in an Administrative Resolution
9 for the public sale of the Bonds of any series, the Bonds of
10 each series shall be sold by private (negotiated) sale upon
11 such terms and conditions as shall be approved by the County
12 Council in an Administrative Resolution.

13
14 SECTION 9. AND BE IT FURTHER ENACTED BY THE COUNTY
15 COUNCIL OF HARFORD COUNTY, MARYLAND, That the provisions of
16 this Ordinance are severable, and if any provision, sentence,
17 clause, section or part hereof is held illegal, invalid or
18 unconstitutional or inapplicable to any person or circum-
19 stances, such illegality, invalidity or unconstitutionality,
20 or inapplicability shall not affect or impair any of the
21 remaining provisions, sentences, clauses, sections, or parts
22 of this Ordinance or their application to other persons or
23 circumstances. It is hereby declared to be the legislative
24 intent that this Ordinance would have been passed if such
25 illegal, invalid or unconstitutional provision, sentence,
26 clause, section or part had not been included herein, and if
27 the person or circumstances to which this Ordinance or any
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Angela Marchese, Secretary

part hereof are inapplicable had been specifically exempted herefrom.

SECTION 11. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That this Ordinance has no financial impact on Harford County, Maryland, and, therefore, there is no requirement for a fiscal impact note.

SECTION 12. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Industrial Building and the sale of the Bonds therefor shall not constitute a capital project within the meaning of the Harford County Charter or Code.

SECTION 13. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Bonds must be issued and sold within six (6) months from the date on which this Ordinance becomes law; provided, however, that the County Council, after a showing of good cause after a public hearing held before the County Council prior to or after the expiration of such six (6) month period, may by administrative resolution extend the period during which the Bonds may be issued and sold for such additional terms not to exceed six (6) months in the aggregate from the date on which the first six (6) month period expired. The County Council, in its sole discretion, shall determine the sufficiency, or lack thereof, of the reasons presented for any requested extension of the six (6) month period. If an extension is granted, notice of such extension and the reasons therefor must be sent to the County Executive. If the Bonds are not issued and sold within said six (6) month period or any approved extension thereof, the authority provided in this Ordinance for the County to issue and sell the Bonds shall expire.

SECTION 14. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That this Ordinance shall take effect 60 days after the date that it becomes law.

EFFECTIVE: March 8, 1982

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BY THE COUNCIL

Read the third time, BILL NO. 81-95

Passed LSD 81-38 (December 15, 1981) ~~(with amendments)~~
~~XXXXXXXXXXXX~~

By order

Angela Markowski, Secretary

Sealed with the County Seal and presented to the County Executive
 for his approval this 16th day of December, 1981
 at 3:00 o'clock P.M.



Angela Markowski, Secretary

BY THE EXECUTIVE

APPROVED:

[Signature]
 County Executive
 Date 1/6/82

BY THE COUNCIL

This Bill (No. 81-95), having been approved by the Executive
 and returned to the Council, becomes law on January 6, 1982.

Angela Markowski, Secretary

Rec'd & Recorded 4/26 1982 at 2:00 P.M.
 Liber 7 Folio 332 & examined per
 H. Douglas Chilcoat, Clerk, Harford Co.

EFFECTIVE DATE: March 8, 1982